PT 01-35
Tax Type: Property Tax
Issue: Charitable Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS

RAGDALE FOUNDATION, APPLICANT		
v.	**Nos.**	**00-PT-0031 (99-49-0078)**
	P.I.N:	**12-29-206-003**
ILLINOIS DEPARTMENT OF REVENUE		

RECOMMENDATION FOR DISPOSITION

APPEARANCES: Mr. George Covington, attorney at law, on behalf of the Ragdale Foundation.

SYNOPSIS: This matter raises the following issues: (1) whether the Ragdale Foundation, (hereinafter the "applicant") qualifies as an "institution of public charity" within the meaning of Section 15-65(a) of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq.* (hereinafter the "Code), and, (2) whether real estate identified by Lake County Parcel Index Number 12-29-206-003 (hereinafter the "subject property") was used as part of another exempt use, as required by Section 15-125 of the Code during the 1999 assessment year. The underlying controversy arises as follows:

Applicant filed an Application for Property Tax Exemption with the Lake County Board of Review (hereinafter the "Board") on June 25, 1999. The Board reviewed the application and recommended to the Illinois Department of Revenue (hereinafter the "Department") that the requested exemption be granted. On February 25, 2000, the

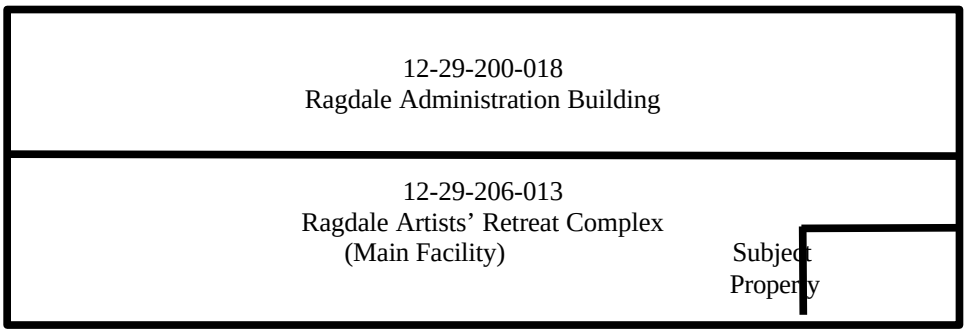
Department issued a determination finding that the subject property was not in exempt ownership and not in exempt use. Applicant filed a timely appeal as to this denial and later presented evidence at an evidentiary hearing. Following a careful review of the record made at hearing, I recommend that the Department's determination in this matter be affirmed.

FINDINGS OF FACT:

A. Preliminary Considerations and Description of the Subject Property

1. The Department's jurisdiction over this matter and its position therein are established by the admission into evidence of Dept. Ex. Nos. 1, 2.
2. The Department's position in this matter is that the subject property is not in exempt ownership and not in exempt use. Dept. Ex. No. 1.
3. The subject property is located at 1260 N. Green Bay Road, Lake Forest, Illinois and improved with a paved parking lot. Dept. Ex. No. 1; Tr. p. 39.
4. The parking lot is situated on a larger campus commonly known as the Ragdale property. That property, part of which is listed on the National Register of Historic Places, is in turn located on the grounds of the family estate of the late architect Howard Van Doren Shaw. Applicant Ex. Nos. 7, 13.

5. The Ragdale property is configured as follows:



Applicant Ex. No. 7, 13.

6. The City of Lake Forest (hereinafter the "City") holds legal title to all of the Ragdale properties except the subject property. However, applicant operates all of the facilities situated on the Ragdale properties pursuant to a written agreement dated April 1, 1986. Applicant Ex. No. 1.

7. This agreement provides, *inter alia*, that:

   - The initial term of the agreement shall commence on April 1, 1986 and terminate on December 31, 2010;
   - The term may be renewed in accordance with certain terms and conditions set forth in the agreement;[1]
   - The City shall be responsible for the general outside maintenance, upkeep and repair of all exterior areas within the campus, including all parking areas and the exterior surfaces (roof, gutters, windows, etc.) of

1. These terms and conditions do not affect the outcome of this case and shall not be recited herein. For further details pertaining to these terms and conditions, or any other aspects of the agreement, *see*, Applicant Ex. No. 1.

the Administration Building and Main Facility, throughout the term of the agreement;

- The City shall also be responsible for the upkeep, maintenance and repair of whatever interior areas of the Administration Building and Main Facility it may use for its own purposes; and,
- Applicant shall be responsible for the upkeep, maintenance, repair and replacement of whatever interior areas of the Administration Building and Main Facility as it may occupy and use as a retreat for writers, painters and other artisans.

Applicant Ex. No. 1.

8. The City obtained a real estate tax exemption for the Administration Building parcel pursuant to the determination in Docket No. 86-49-0158, issued by the Department on November 12, 1987. This exemption remained in full force and effect throughout the 1999 assessment year. Administrative Notice.

9. The City also obtained a real estate tax exemption for the Main Facility parcel pursuant to the determination in Docket No. 87-49-0014, issued by the Department on April 14, 1988. This exemption remained in full force and effect throughout the 1999 assessment year. Administrative Notice.

B. Applicant's Organizational Structure and Operations

10. Applicant is an Illinois not for profit-corporation organized for purposes of:

- Providing a contemplative and enriching environment where artists, writers and composers can contemplate works in progress or develop new ideas without interruption;
- Providing artists in residence with audience development opportunities through presentations and special programming;
- Serving as a center fostering arts for the benefit of the larger community; and,
- Preserving the historic Ragdale estate.

Applicant Ex. Nos. 1, 2.

11. Applicant is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code pursuant to a determination issued by the Internal Revenue Service on January 16, 1979. This exemption remained in full force and effect throughout the 1999 assessment year. Applicant Ex. No. 4.

12. Applicant is also exempt from Illinois Use and related sales taxes pursuant to a determination originally issued by the Department on August 10, 1990. This determination, which was based on the Department's conclusion that applicant qualified for such exemption under Section 3-5(3) of the Use Tax Act (35 **ILCS** 105/1, *et seq*; 35 **ILCS** 105/3-5(3)),[2] remained in full force and effect throughout the 1999 assessment year. Applicant Ex. No. 5.

2. Section 3-5(3) of the Use Tax Act provides, in relevant part, that tangible personal property "purchased by a not for profit music or dramatic arts organization [that is exempt from federal income tax] under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated for

13. Applicant's artist-in-residence program provides accommodations and working space for 150 artists per year. Applicant selects each of the 150 artists via a rigorous application process whereby it evaluates the artistic merit of each prospective residential artist's work. Applicant Ex. No. 7; Tr. pp. 10-11.

14. The evaluation is carried out by a jury of artistic experts from applicant's staff, which assesses all submissions in terms of: (1) the strength of what the artist proposes to do while in residence; (2) the strength of the artist's career; (3) the technical strength of the artist's work; (4) the artist's creativity; and, (5) the artistic significance of the artist's work. Tr. pp. 10-12.

15. The jury evaluates all proposals that applicant receives and makes recommendations for acceptance to applicant's executive director, who then retains the right to make a final determination as to which artists applicant will accept. Tr. p. 11.

16. Applicant actually accepts only 1 in 5 (or 20%) of the proposals that it receives. Those whose proposals applicant accepts are then invited to become artists in residence at the Ragdale property. Applicant Ex. No. 7.

17. The residencies last between two and eight weeks, although most artists stay only two. During their stays, the artists create their own schedules but share their work with their fellow residents during informal evening readings and open studios. Applicant Ex. Nos. 7, 8.

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the presentation of live public performances of musical or theatrical works on a regular basis, is exempt from Illinois Use Tax. 35 **ILCS** 105/3-5(3). Administrative Notice.

18. The artists also participate in arts programming wherein they share their work with visitors to the Ragdale property and/or participate in tours, workshops and other events within the immediate community that applicant sponsors. Applicant Ex. Nos. 7, 8, 9.

19. Applicant charges fees for most of these programs. It fees, which range from $15 to $200 per event, are payable in advance with a reservation. Applicant Ex. No. 9.

20. Applicant makes the general public aware of these events through advertisements that set forth the time and place[3] for each event as well as a short program description or biography of the artist. *Id*.

21. The advertisements also state the fee for each event but do not indicate whether applicant will waive or reduce whatever fee it charges in the event that someone cannot afford to pay. *Id*.

22. Each artist in residence pays a residence fee of $15.00 per day. This fee helps to defray the actual room and board costs that applicant incurs, which amount to $121.00 per day for each resident. Applicant Ex. No. 7; Tr. p. 12.

23. Applicant receives funds from numerous sources, including, *inter alia*, the Sara Lee Foundation, the Union League Civic and Arts Foundation, the National Endowment for the Arts, the Illinois Arts Council and the Friends of Ragdale,[4] which enable it to cover the $106.00 difference between applicant's

3. Applicant holds many of the workshops and other events at studios, private homes and places other than the Ragdale property. Applicant Ex. No. 9.

4. I am able to identify these donors because their names appear on the program description submitted as Applicant Ex. No. 8. However, I can not ascertain the exact amounts that these donors contributed to applicant, or make any additional analysis of applicant's financial structure, because applicant did not submit any financial statements.

actual room and board costs and the income it receives from residence fees. Applicant Ex. No. 8; Tr. pp. 12-13.

24. Applicant will provide any artist who can not afford the residence fee with scholarships, fee waivers or other financial assistance, provided that the artist makes an appropriate showing of financial need. Applicant Ex. No. 7; Tr. pp. 12-13.

25. Those receiving financial assistance account for approximately 20% to 25% of applicant's artist-in-residence population at any one time. Tr. p. 13.

C. Applicant's Ownership and Use of the Subject Property

26. Applicant obtained ownership of the subject property by means of a quitclaim deed dated December 9, 1997. Applicant Ex. Nos. 2, 6.

27. The subject property is improved with a paved parking lot that has capacity for approximately 40 cars. Tr. pp. 39-41.

28. Applicant used the subject property as the main parking facility for its larger campus throughout 1999. It did not charge anyone for using this parking facility, or derive any rental income therefrom, during that time. *Id*.

CONCLUSIONS OF LAW:

An examination of the record establishes that this applicant has not demonstrated by the presentation of testimony or through exhibits or argument, evidence sufficient to warrant exempting the subject property from 1999 real estate taxes under Sections 15-65 and 15-125 of the Property Tax Code, 35 **ILCS** 200/1-1, *et. seq.* Accordingly, under the reasoning given below, the determination by the Department that said property does not qualify for such exemption should be affirmed. In support thereof, I make the following conclusions:

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

> The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to Constitutional authority, the General Assembly enacted Sections 15-65 and 15-125 of the Property Tax Code, 35 **ILCS** 200/1-1 *et seq*, wherein the following are exempted from real estate taxation:

200/15-65. Charitable Purposes

> All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:
>
> (a) institutions of public charity.

35 **ILCS** 200/15-65(a).

200/15-125. Parking areas

> § 15-125. Parking areas, not leased or used for profit, when used as part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, or religious or charitable institutions which meets the qualifications for exemption..[.]

35 **ILCS** 200/15-125.

Property tax exemptions are inherently injurious to public funds because they impose lost revenue costs on taxing bodies. In order to minimize the harmful effects of such lost revenue costs, exemption statutes must be interpreted in rigorous conformity with the Constitutional limitations thereon. Accordingly, statutes conferring property tax exemptions are to be strictly construed so that all factual inferences, debatable legal questions and other disputed matters are resolved in favor of taxation. People Ex Rel. Nordland v. the Association of the Winnebego Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987)).

The precise debatable question at issue in this case is whether a parking area that is owned by one entity, yet used for no purpose other than serving the parking needs of property owned by another, legally distinct entity whose property is exempt solely by virtue of the latter entity's ownership interest therein, qualifies for exemption under Section 15-125 of the Property Tax Code. Based on the record currently before me, and the unique facts derived therefrom, I conclude that this question should be answered in the negative.

Section 15-125 states in substance that parking areas are subject to exemption if they are: (1) owned by a school district, non-profit hospital, or religious or charitable institutions which meets the qualifications for exemption set forth in the applicable section(s) of the Code; (2) not leased or otherwise used with a view to profit; and, (3) used as part of a use for which an exemption is provided in the Code. 35 **ILCS** 200/15-125; Northwestern Memorial Foundation v. Johnson, 141 Ill. App.3d 309 (1st Dist. 1986).

This case is unlike most cases that arise under Section 15-125 in that the parking areas presently in dispute and the campus facilities that it serves are owned by separate legal entities. The former are owned by an Illinois not profit corporation that is the applicant herein, the latter by a municipal corporation that is not. This dichotomy of ownership is important for several reasons, the primary of which is that municipal corporations do not fall within the very limited class of exempt owners set forth in Section 15-125.

Furthermore, Section 15-125 explicitly states all members of the class of owners whose parking areas are subject to exemption thereunder, to wit, school districts, non-profit hospitals, schools, religious societies and charitable institutions, must be entities that meet "the qualifications for exemption" articulated in the Code provisions which pertain thereto.

The exemption for "charitable institutions" is found in 35 **ILCS** 200/15-65(a)[5] and requires that: (1) the property in question be owned by an entity that qualifies as an "institution of public charity[;]" and, (2) said property be "exclusively used" for purposes that qualify as "charitable" within the meaning of Illinois law. Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156 (1968).

By definition, "institutions of public charity" operate to benefit an indefinite number of people in a manner that persuades them to an educational or religious

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5. Section 15-65(a) of the Property Tax Code (35 **ILCS** 200/15-65(a)) states that:

> All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:
>
> (a) institutions of public charity[.]

35 **ILCS** 15-65(a).

conviction that benefits their general welfare or otherwise reduce the burdens of government. Crerar v. Williams, 145 Ill. 625 (1893). They also: (1) have no capital stock or shareholders; (2) earn no profits or dividends, but rather, derive their funds mainly from public and private charity and holds such funds in trust for the objects and purposes expressed in its charter; (3) dispense charity to all who need and apply for it; (4) do not provide gain or profit in a private sense to any person connected with it; and, (5) do not appear to place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits it dispenses. Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156, 157 (1968).

These factors are not to be applied mechanically or technically. DuPage County Board of Review v. Joint Comm'n on Accreditation of Healthcare Organizations, 274 Ill. App. 3d 461, 466 (2nd Dist. 1995). Rather, they are to be balanced with an overall focus on whether, and to what extent, applicant: (1) primarily serves non-exempt interests, such as those of its own dues-paying members (Rogers Park Post No. 108 v. Brenza, 8 Ill.2d 286 (1956); Morton Temple Association v. Department of Revenue, 158 Ill. App. 3d 794, 796 (3rd Dist. 1987); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987); Du Page Art League v. Department of Revenue, 177 Ill. App.3d 895 (2nd Dist. 1988); or, (2) operates primarily in the public interest and lessens the State's burden. (*see*, DuPage County Board of Review v. Joint Comm'n on Accreditation of Healthcare Organizations, *supra*; Randolph Street Gallery v. Department of Revenue, 315 Ill. App.3d 1060 (1st Dist. 2000).

This record does not support the conclusion that applicant qualifies as a charitable institution for several reasons. First, applicant's executive director, Susan Page Tillet,

testified that applicant employs a "very highly selective" process, that utilizes extremely subjective artistic criteria, to choose the limited group of persons who benefit from its artist in residence program. (Tr. pp. 10, 11-13). This process is inherently exclusionary toward those applicant does not select, and therefore, suggests that applicant operates primarily for the benefit of the limited class of persons it chooses as artists in residence.

Furthermore, because applicant selects only 1 in 5, or 20%, of those who apply to become artists in residence, applicant clearly does not dispense "charity" to the remaining 80% of persons who apply to its program. (*See*, Applicant Ex. No. 7). Therefore, whatever lessening of government burdens applicant may accomplish by having its very select group of artists in residence participate in arts programming for the immediate community[6] seems incidental to its primary mission which, based on the foregoing, I find to be serving the needs of that select group of artisans.

This select group also receives benefits from the programs that applicant conducts for the immediate community, such as the opportunity to present their works in major markets, that applicant does not make available to those artists it does not select. For this reason, the instant record raises doubts as to whether the public at large is the primary beneficiary of such programs.

The rules of statutory construction that apply in all exemption cases require that all doubts be resolved in favor of taxation. People Ex Rel. Nordland v. the Association of

6. It is briefly noted that the manner in which applicant administers most of these programs is inconsistent with dispensation of "charity" because the advertisements therefor (Applicant Group Ex. No. 9) fail to inform the public at large that it may receive the benefits of participating in such programs without charge in a proper case. Du Page Art League v. Department of Revenue, 177 Ill. App.3d 895, 900-901 (2nd Dist. 1988), citing Highland Park Hospital v. Department of Revenue, 155 Ill. App.3d 272, 280-281 (2d Dist. 1987). For this reason, it is highly unlikely that applicant would qualify for exempt status even if this record justified the conclusion that it was primarily engaged in presenting these programs to the public.

the Winnebego Home for the Aged, 40 Ill.2d 91 (1968), *supra*; Gas Research Institute v. Department of Revenue, *supra.* Therefore, a matter of law, I am required to conclude that the relatively small group of artists in residence that applicant selects, and not the public at large, are the primary beneficiaries of applicant's public programs.

Applicant might have cured the above reservations if it had submitted financial statements disclosing the extent of its expenditures on public outreach programs and other critical information about its financial structure. Because applicant failed to submit such statements, I conclude that the inferences that can be gleaned from Ms. Tillet's testimony and the documents applicant offered in support thereof are legally insufficient to warrant any conclusion except that applicant does not qualify for charitable status because it operates primarily for the benefit of the limited class of persons it selects as artists in residence.

Ms. Tillet testified, and the application brochure confirms that, each resident artist pays a residence fee of $15.00 per day while residing at Ragdale. (Tr. pp. 12-13; Applicant Ex. No. 7). She further testified that: (a) applicant's actual room and board costs for each resident are $121.00 per day (Tr. p. 12); and, (b) applicant receives grants and other monies which enable it to pay the $106.00 difference between the income it receives from residence fees and its actual costs. (Tr. pp. 12-13).

These figures can be used to derive the following estimates of the costs applicant incurs in connection with its artist in residence program:

FACTOR	COMPUTATIONS	RESULT
Total cost to each artist for each 2 week residency	$ 15.00 per day residence fee x 2 weeks (14 days) $ 210.00 for 2 weeks	Each resident pays no more[7] than $210.00 toward the cost of each 2 week residency
Applicant's gross cost for each 2 week residency	$ 121.00 daily gross cost[8] x 14 days $ 1,694.00 gross cost for 2 weeks	Applicant's total, gross cost for each 2 week residency is at least $1,694.00 per resident.
Applicant's net cost for each 2 week residency	$ 1,694.00 daily gross cost -$ 210.00 residence fees $ 1,484.00 net cost for 2 weeks	Applicant's net cost for each 2 week residency is at least $1,484.00 per resident.
Applicant's net cost reflected on a percentage basis	$ 1,484.00 net cost /$ 1,694.00 gross cost .876 (rounded) or 88%	Applicant actually pays no less than 88% of the cost of each 2 week residency.
Applicant's annual gross cost for artist in residence program	$ 1,694.00 gross cost per artist x 150 artists in residence[9] $ 254,100.00 annual gross cost	Applicant's annual gross cost for its artist in residence program is at least $254,100.00
Applicant's annual net cost for the artist in residence program	$ 1,484.00 net cost per artist x 150 artists in residence $ 222,600.00 annual net cost	Applicant's spends no less than $222,600.00 on its resident artist program each year.
Applicant's annual net cost for the artist in residence program reflected on a percentage basis	$ 222,600.00 annual net cost /$ 254,100.00 annual gross cost 0.876 (rounded) or 88%	Applicant absorbs at least 88% of the total cost of its artist-in-residence program on an annual basis.

Because applicant absorbs no less than 88% of the total cost of its artist in residence program, and the preceding analysis demonstrates that this program benefits only a very select group of persons, it is not unreasonable to infer that applicant devotes a considerable amount of its financial resources to serving the needs of that limited group. This inference is, once again, consistent with the rules of construction that apply in all

7. Between 20 and 25% of the residents pay less than $210.00, or nothing at all, because they receive financial aid. Tr. p. 13.

8. I refer to this amount as a "gross cost" because it does not account for the reduction in total costs which applicant obtains through the receipt residence fee income.

9. This computation relies on the information contained in the application brochure (Applicant Ex. No. 7) to assume that applicant allows 150 artists in residence to use its facilities on an annual basis.

exemption cases because it supports taxation. People Ex Rel. Nordland v. the Association of the Winnebego Home for the Aged, 40 Ill.2d 91 (1968), *supra*; Gas Research Institute v. Department of Revenue, *supra.*

More importantly, applicant's failure to submit financial statements that would rebut this inference mandates that applicant has failed to prove that: (1) the primary beneficiaries of its operations are anyone other than the limited group of persons whom its selects as artists in residence; and, (2) the public is anything but an incidental beneficiary of such operations. Therefore, for all the above stated reasons, I conclude that applicant does not qualify as an "institution of public charity" within the meaning of Section 15-65(a) of the Property Tax Code.

Applicant's exemptions from federal income and Illinois Use taxes do not alter this conclusion. It is well settled that the former, which are issued pursuant to Section 501(c) of the Internal Revenue Code, are not determinative for present purposes. In re Application of Clark v. Marion Park, Inc, 80 Ill. App.3d 1010, 1012-13 (2nd Dist. 1980); People ex rel. County Collector v. Hopedale Medical Foundation, 46 Ill.2d 450 (1970).

As concerns the latter, applicant's exemption from Illinois Use and related sales taxes arises pursuant to Section 3-5(3) of the Use Tax Act, 35 **ILCS** 105/1, *et seq*, wherein tangible personal property "purchased by a not for profit music or dramatic arts organization [that is exempt from federal income tax] under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated for the presentation of live public performances of musical or theatrical works on a regular basis," is exempted from Illinois Use Tax. 35 **ILCS** 105/3-5(3).

Section 3-5(3) is a very specific provision that neither mentions nor strictly applies to "institutions of public charity." Such institutions in fact derive their exempt status for Use Tax purposes under a separate provision of the Use Tax Act, that being 35 **ILCS** 105/3-5(4). Furthermore, Article IX, Section 6 of the Illinois Constitution of 1970, which states that "[t]he General Assembly by law may exempt from taxation *only* the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes," operates as a limitation on the power of the General Assembly to exempt real estate from taxation. Ill. Const. 1970, Art. IX, Sec. 6 (emphasis added); Board of Certified Safety Professionals, Inc. v. Johnson, 112 Ill.2d 542 (1986). Therefore, as a matter of Constitutional law, the General Assembly can not broaden or enlarge the real estate tax exemptions permitted by the Constitution or grant exemptions other than those authorized thereby. *Id*.

The Illinois Constitution of 1970 does not authorize the General Assembly to pass legislation that exempts real estate owned and/or used by the types of entities described in Section 3-5(3) of the Use Tax Act. Consequently, applicant's exemption from Illinois Use and related sales taxes, which arises under Section 3-5(3) of the Use Tax Act, has no impact on the decisive issue herein.

That issue is whether applicant qualifies as an "institution of public charity" for purposes of Article IX, Section 6 of the Illinois Constitution of 1970 and Sections 15-65(a) and 15-125 of the Property Tax Code. The foregoing analysis demonstrates that applicant does not so qualify. Consequently, the subject property does not satisfy the statutory requirement, articulated in Section 15-125, of being owned by "a charitable

institution *which meets the qualifications for exemption*" set forth Code section pertaining thereto. 35 **ILCS** 200/15-125 (emphasis added). Therefore, that portion of the Department's determination finding that the subject property is not in exempt ownership should be affirmed.

With respect to the issue of exempt use, it is first noted that both of the statutes which govern the outcome of this case, Sections 15-65(a) and 15-125 of the Property Tax Code, contain exempt use requirements. The one set forth in Section 15-65(a) mandates that property owned by an "institution of public charity" also be "actually and exclusively used for charitable or beneficent purposes" (35 **ILCS** 200/15-65(a)), while the latter requires, in pertinent part, that parking areas owned by charitable institutions be "used as part of a use for which an exemption is provided [in the Property Tax] Code." (35 **ILCS** 200/15-125).

Neither Section 15-65(a) nor Section 15-125 envisions the dichotomy of ownership present herein. This dichotomy arises because: (1) the disputed parking areas and the campus facilities they serve are not owned by the same entity;[10] (2) the campus facilities themselves are not presently at issue because their owner, the City, has already obtained property tax exemptions therefor; and, (3) the City obtained those exemptions pursuant to a provision of the Property Tax Code which does not require exempt use.

That provision, contained in Section 15-60(c) of the Property Tax Code, states that "all property *owned* by any city or village located within its incorporated limits" is tax exempt. 35 **ILCS** 200/15-60(c) (emphasis added). Section 15-60(c) contains no use language. Accordingly, the only pertinent criterion for exemption thereunder is

10. See *supra*, at p. 11.

ownership. As such, it is legally impossible for the City's use of the campus properties to be one that fulfills the very specific use requirement articulated in Section 15-125. Therefore, the mere fact that subject property is used for no purpose other than servicing the parking needs of properties that are exempt solely by virtue of the City's ownership interest therein is of no legal significance herein.

Based on the foregoing, I conclude that the exemption for the disputed parking areas can not be bootstrapped onto the City's exemption for the campus facilities. Hence, applicant's own use of such facilities, and *not* that of the City, is decisive on the question of exempt use.

Much of the analysis which I employed in concluding that applicant does not qualify as an "institution of public charity" applies with equal force to the issue concerning lack of exempt use. In the interest of brevity, the salient portions of that analysis, found *supra*, at pp. 11-16, are hereby incorporated by reference herein. However, I would briefly note that applicant uses the campus facilities primarily to provide working space for, and living accommodations to, the highly select group of persons it chooses as artists in residence.

Such uses fail to qualify as "exclusively charitable" within the meaning of 35 **ILCS** 200/15-65(a) because they do not satisfy the definitional requirement of benefiting an "indefinite number of persons." Methodist Old People's Home v. Korzen, *supra*. Accordingly, any properties which derive their exempt status from applicant's use of the campus facilities are likewise not in exempt use.

Section 15-125 expressly mandates such derivation by requiring that parking areas, such as the subject property, be "used as part of a use for which an exemption is

provided by this Code." 35 **ILCS** 200/15-125. The subject property does not fulfill that mandate for the reasons set forth above. Therefore, that portion of the Department's determination which found that the subject property is not in exempt use should be affirmed.

In summary, the subject property does not qualify for exemption from 1999 real estate taxes under Section 15-125 of the Property Tax Code because it was not: (1) owned by a duly qualified "institution of public charity" during that tax year; and, (2) used in connection with a use that qualified as being "exclusively charitable" throughout same. Therefore, the Department's determination in this matter should be affirmed.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that real estate identified by Lake County Parcel Index Number 12-29-206-003 not be exempt from 1999 real estate taxes under Sections 15-65(a) and 15-125 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq.*

July 13, 2001
Date

_____
Alan I. Marcus
Administrative Law Judge